



February 6, 2009

## HOUSE BILL No. 1397

DIGEST OF HB 1397 (Updated February 4, 2009 4:04 pm - DI 103)

**Citations Affected:** IC 6-3.1.

**Synopsis:** Buy American tax credit. Provides the buy American investment tax credit for individuals and small businesses who purchase construction equipment, farm tractors, motor vehicles, recreational vehicles, tractors, or truck campers that are certified by the economic development corporation (IEDC) to have been made in America. Requires the IEDC to certify that construction equipment, farm tractors, motor vehicles, and tractors are made in America if they are assembled in America, have engines and transmissions assembled in America, and have at least 70% parts content that is made in America.

**Effective:** July 1, 2009.

**Niezgodski, Barnes**

January 13, 2009, read first time and referred to Committee on Small Business and Economic Development.  
February 5, 2009, amended, reported — Do Pass.

C  
o  
p  
y

HB 1397—LS 7039/DI 92+



February 6, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1397

---

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.1-1-3, AS AMENDED BY P.L.223-2007,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 3. A taxpayer (as defined in the following laws),  
4 pass through entity (as defined in the following laws), or shareholder,  
5 partner, or member of a pass through entity may not be granted more  
6 than one (1) tax credit under the following laws for the same project:  
7 (1) IC 6-3.1-10 (enterprise zone investment cost credit).  
8 (2) IC 6-3.1-11 (industrial recovery tax credit).  
9 (3) IC 6-3.1-11.5 (military base recovery tax credit).  
10 (4) IC 6-3.1-11.6 (military base investment cost credit).  
11 (5) IC 6-3.1-13.5 (capital investment tax credit).  
12 (6) IC 6-3.1-19 (community revitalization enhancement district  
13 tax credit).  
14 (7) IC 6-3.1-24 (venture capital investment tax credit).  
15 (8) IC 6-3.1-26 (Hoosier business investment tax credit).  
16 (9) IC 6-3.1-31.9 (Hoosier alternative fuel vehicle manufacturer  
17 tax credit).

HB 1397—LS 7039/DI 92+



C  
o  
p  
y

**(10) IC 6-3.1-33 (buy American investment tax credit).**

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit for the same project, the taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity must elect to apply only one (1) of the tax credits in the manner and form prescribed by the department.

SECTION 2. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 33. Buy American Investment Tax Credit**

**Sec. 1. This chapter applies to taxable years beginning after December 31, 2009.**

**Sec. 2. As used in this chapter, "all terrain vehicle" has the meaning set forth in IC 15-12-3-2.**

**Sec. 3. As used in this chapter, "America" means one (1) or more of the states comprising the United States of America or the District of Columbia.**

**Sec. 4. (a) As used in this chapter, "construction equipment" means a motorized, self-propelled machine designed to scrape, push, move, or load dirt, sand, gravel, rock, or other materials. The term includes the following:**

- (1) Articulated dump trucks.**
- (2) Backhoe loaders.**
- (3) Bulldozers.**
- (4) Excavators.**
- (5) Landscape loaders.**
- (6) Loaders.**
- (7) Motor graders.**
- (8) Scraper tractors.**
- (9) Skid steers.**

**(b) The term does not include an all terrain vehicle.**

**Sec. 5. As used in this chapter, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.**

**Sec. 6. As used in this chapter, "department" refers to the department of state revenue.**

**Sec. 7. As used in this chapter, "farm tractor" has the meaning set forth in IC 9-13-2-56.**

**Sec. 8. As used in this chapter, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).**

**Sec. 9. As used in this chapter, "pass through entity" means a:**

**C  
O  
P  
Y**



(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

Sec. 10. As used in this chapter, "qualified investment" means the purchase of new construction equipment, a new farm tractor, a new motor vehicle, a new tractor, a new recreational vehicle, or a new truck camper that:

(1) has never been placed into service or used by another person; and

(2) is certified by the corporation to have been made in America.

Sec. 11. As used in this chapter, "qualified taxpayer" means:

(1) an individual who resides in Indiana and has state tax liability; or

(2) a corporation, a partnership, a limited liability company, a limited liability partnership, or other entity that:

(A) is domiciled in Indiana;

(B) is a small business; and

(C) has state tax liability.

Sec. 11.5. As used in this chapter, "recreational vehicle" has the meaning set forth in IC 9-13-2-150(a).

Sec. 12. As used in this chapter, "small business" has the meaning set forth in IC 4-4-5.2-3.

Sec. 13. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax) as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 14. As used in this chapter, "tractor" has the meaning set forth in IC 9-13-2-180.

Sec. 14.5. As used in this chapter, "truck camper" has the meaning set forth in IC 6-6-5.1-8.

Sec. 15. A qualified taxpayer that makes a qualified investment is entitled to a credit against the taxpayer's state tax liability for the taxable year in which the qualified taxpayer makes the qualified investment.

Sec. 16. Subject to section 17 of this chapter, the total amount of a tax credit claimed for a taxable year under this chapter is equal to:

C  
o  
p  
y



- (1) the number of qualified investments made by the qualified taxpayer during that taxable year; multiplied by
- (2) one thousand dollars (\$1,000).

Sec. 17. (a) The total amount of tax credits claimed by a qualified taxpayer for a particular taxable year may not exceed the qualified taxpayer's state tax liability for that taxable year.

(b) A qualified taxpayer may not carry forward any unused credit.

(c) A qualified taxpayer is not entitled to any carryback or refund of any unused credit.

Sec. 18. (a) If a pass through entity does not have state tax liability against which the tax credit may be applied, a shareholder, member, or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim a credit under this chapter for the same qualified investment.

Sec. 19. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department:

- (1) a copy of the certificate issued to the qualified taxpayer under section 20(c) of this chapter; and
- (2) all other information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 20. (a) The purchase of new construction equipment, a new farm tractor, a new motor vehicle, a new tractor, a new recreational vehicle, or a new truck camper is ineligible for a tax credit under this chapter unless the new construction equipment, farm tractor, motor vehicle, tractor, recreational vehicle, or truck camper has been certified by the corporation as having been made in America.

(b) The corporation shall certify that construction equipment,

C  
o  
p  
y



1 a farm tractor, a motor vehicle, a tractor, a recreational vehicle, or  
2 a truck camper is made in America if it satisfies the following  
3 requirements:

4 (1) The construction equipment, farm tractor, motor vehicle,  
5 tractor, recreational vehicle, or truck camper must be  
6 assembled in America.

7 (2) The engine of the construction equipment, farm tractor,  
8 motor vehicle, tractor, recreational vehicle, or truck camper  
9 must be assembled in America.

10 (3) The transmission of the construction equipment, farm  
11 tractor, motor vehicle, tractor, recreational vehicle, or truck  
12 camper must be assembled in America.

13 (4) At least seventy percent (70%) of the parts contained in  
14 the construction equipment, farm tractor, motor vehicle,  
15 tractor, recreational vehicle, or truck camper must be made  
16 in America.

17 (c) The corporation shall issue a certificate of eligibility to each  
18 qualified taxpayer who provides proof of purchase of construction  
19 equipment, a farm tractor, a motor vehicle, a tractor, a  
20 recreational vehicle, or a truck camper that is certified under  
21 subsection (b) to have been made in America. A copy of the  
22 certificate of eligibility must be submitted to the department under  
23 section 19 of this chapter for each qualified investment for which  
24 the qualified taxpayer wishes to claim a tax credit under this  
25 chapter in a taxable year.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred House Bill 1397, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 8, after "equipment," insert "a".

Page 3, line 9, before "new motor" insert "a".

Page 3, line 9, delete "or" and insert "a".

Page 3, line 9, after "tractor" insert ", a new recreational vehicle, or a new truck camper".

Page 3, between lines 21 and 22, begin a new paragraph and insert:

**"Sec. 11.5. As used in this chapter, "recreational vehicle" has the meaning set forth in IC 9-13-2-150(a)."**

Page 3, delete lines 24 through 31, begin a new paragraph and insert:

**"Sec. 13. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax) as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter."**

Page 3, between lines 33 and 34, begin a new paragraph and insert:

**"Sec. 14.5. As used in this chapter, "truck camper" has the meaning set forth in IC 6-6-5.1-8."**

Page 4, line 34, delete "or".

Page 4, line 34, after "new tractor" insert ", a new recreational vehicle, or a new truck camper".

Page 4, line 36, delete "or tractor" and insert "tractor, recreational vehicle, or truck camper".

Page 4, line 39, delete "or".

Page 4, line 39, after "a tractor" insert ", a recreational vehicle, or a truck camper".

Page 4, line 42, delete "or".

Page 4, line 42, after "tractor" insert ", recreational vehicle, or truck camper".

Page 5, line 2, delete "or".

Page 5, line 2, after "tractor" insert ", recreational vehicle, or truck camper".

Page 5, line 4, delete "or tractor" and insert "tractor, recreational vehicle, or truck camper".

Page 5, line 7, delete "or".

Page 5, line 8, after "tractor" insert ", recreational vehicle, or truck

C  
o  
p  
y



**camper".**

Page 5, line 11, delete "or".

Page 5, line 11, after "a tractor" insert ", **a recreational vehicle, or a truck camper**".

and when so amended that said bill do pass.

(Reference is to HB 1397 as introduced.)

SULLIVAN, Chair

Committee Vote: yeas 10, nays 0.

**C  
o  
p  
y**

